# ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Mortgage Banker License of:

No. 10F-BD037-SBD

CIT SMALL BUSINESS LENDING
CORPORATION AND CYNTHIA
MAZZETTA, EXECUTIVE VICE PRESIDENT
14362 North Frank Lloyd Wright Boulevard
Scottsdale, Arizona 85260,

CONSENT ORDER

Respondents.

On October 14, 2009, following an examination of the books, records, policies and procedures of Respondents, the Arizona Department of Financial Institutions ("Department") issued a Report of Examination ("Report") and, based on that Report, an Order to Cease and Desist; Notice of Opportunity for Hearing; Consent to Entry of Order ("Cease and Desist Order"), alleging that Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an administrative hearing, and without admitting liability, for the purposes of this Consent Order only, Respondents consent to the adoption of the following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

#### FINDINGS OF FACT

- 1. Respondent CIT Small Business Lending Corporation ("CIT") is a Delaware corporation authorized to transact business in Arizona as a mortgage banker, license number BK 0014409, within the meaning of A.R.S. §§ 6-941 et seq. The nature of CIT's business is that of making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S. § 6-941(5).
- 2. Respondent Cynthia Mazzetta ("Ms. Mazzetta") is the Executive Vice President of CIT and is authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S. § 6-941(5), as outlined within A.R.S. § 6-943(F).
- 3. CIT and Ms. Mazzetta are not exempt from licensure as mortgage bankers within the meaning of A.R.S. §§ 6-942 and 6-941(5).

- 4. An examination of CIT conducted by the Department, beginning November 24, 2008 and concluding February 11, 2009, revealed that Respondents:
  - a. Failed to obtain a branch office license from the Superintendent and designate a person from each branch to oversee the operations of that office;
  - b. Failed to include the mortgage banker license number as issued on the mortgage banker's principal place of business license and held out an unlicensed location to the public on their website;
  - c. Failed to use a statutorily correct written fee agreement, signed by all parties, in connection with at least three (3) loans; and
  - d. Respondents' Responsible Individual failed to be in active management of Respondents' activities, as evidenced by the number of unlicensed locations where loans are originated, processed and/or held out to the public.
- Based upon the above findings, the Department issued and served upon Respondents a
   Cease and Desist Order on October 14, 2009.
- On October 28, 2009, Respondents requested a Hearing to appeal the Cease and Desist
   Order.
- 7. Respondents have taken or are taking appropriate affirmative actions to correct the conditions which resulted in the issuance of the Cease and Desist Order.

#### CONCLUSIONS OF LAW

- 1. Pursuant to A.R.S. §§ 6-941, et seq., the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.
- 2. By the conduct set forth in the Findings of Fact, CIT and Ms. Mazzetta violated the following:

- a. A.R.S. § 6-944(E), by failing to obtain a branch office license from the Superintendent and designate a person from each branch to oversee the operations of that office;
- b. A.R.S. §§ 6-943(N) and 6-946(E), by failing to include the mortgage banker license number as issued on the mortgage banker's principal place of business license and holding out an unlicensed location to the public on their website;
- c. A.R.S. § 6-946(C), by failing to use a statutorily correct written fee agreement, signed by all parties, in connection with at least three (3) loans; and
- d. A.R.S. § 6-943(F) and A.A.C. R20-4-102, by failing to ensure their Responsible Individual actively managed Respondents' activities.
- 3. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.
- 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-945; (4) an order to pay restitution of any fees earned on loans made in violation of A.R.S. § 6-941, et seq., pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and 6-131.

### <u>ORDER</u>

1. CIT and Ms. Mazzetta shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. Specifically, to the extent that they have not already done so, Respondents shall:

- Obtain a branch office license from the Superintendent and designate a person a. from each branch to oversee the operations of that office;
- b. Include the mortgage banker license number as issued on the mortgage banker's principal place of business license and shall not hold out an unlicensed location to the public on their website;
- Use a statutorily correct written fee agreement, signed by all parties, whenever C. requiring applicants to pay appraisal, credit report and/or other fees in connection with mortgage loan applications; and
- d. Ensure their Responsible Individual actively manages Respondents' activities.
- 2. CIT and Ms. Mazzetta shall comply with all Arizona statutes and rules regulating Arizona mortgage bankers (A.R.S. §§ 6-941, et seq.) and loan originators (A.R.S. §§ 6-991, et seq.).
- 3. CIT and Ms. Mazzetta shall immediately pay to the Department a civil money penalty in the amount of five thousand dollars (\$5,000.00), for which they are jointly and severally liable.
- Pursuant to A.R.S. § 6-125, CIT and Ms. Mazzetta were obligated to pay to the Department the examination fee in the amount of one thousand, four hundred thirteen dollars and seventy five cents (\$1,413.75), which the Department acknowledges has been paid in full.
- 5. The provisions of this Order shall be binding upon Respondents, their employees, agents, and other persons participating in the conduct of the affairs of CIT Small Business Lending Corporation.
- 6. The provisions of this Order shall be binding upon Respondents and resolves and settles the Cease and Desist Order, subject to Respondents' compliance with the requirements of this Order, as well as all other statutes and rules regulating mortgage bankers doing business in Arizona.

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7. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

SO ORDERED this 17 day of December, 2009.

Thomas L. Wood

Acting Superintendent of Financial Institutions

Robert D. Charlton

Assistant Superintendent of Financial Institutions

## CONSENT TO ENTRY OF ORDER

- 1. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.
- 2. Respondents consent to the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.
- Respondents state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.
- 4. Respondents acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.
- 5. Cynthia Mazzetta, on behalf of CIT Small Business Lending Corporation and herself, represents that she is the Executive Vice President and that, as such, has been authorized by CIT to consent to the entry of this Order on its behalf.

| 1   | 6. Respondents waive all rights to seek judicial review or otherwise to challenge or contest |  |
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| 2   | the validity of this Consent Order.  |  |
| 3   | DATED this 4 day of DECEMBER, 2009.  |  |
| 4   |  |  |
| 5   | By Cyntha Magetta  |  |
| 6   | Cynthia Mazzetta, Executive Vice President CIT Small Business Lending Corporation            |  |
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| 8   | il a companierom or orre vereficarille research  |  |
| 9   | this 17th day of December, 2009 in the office of:  |  |
| 10  | Thomas L. Wood Acting Superintendent of Financial Institutions                               |  |
| 11  | Arizona Department of Financial Institutions Attention: Susan Longo                          |  |
| 12  | 2910 North 44th Street, Suite 310<br>Phoenix, AZ 85018                                       |  |
| 13  | COPY of the foregoing mailed or hand-delivered this 17th day of 2009 to:                     |  |
| 14  |  |  |
| 15  | Erin O. Gallagher Assistant Attorney General   |  |
| 16  | 11 22 0 11 000 11 000000   |  |
| 17  | Phoenix, AZ 85007  |  |
| 18  | Robert Charlton, Assistant Superintendent<br>Chris Dunshee, Senior Examiner                  |  |
| 19  | Arizona Department of Financial Institutions 2910 North 44th Street, Suite 310               |  |
| 20  | Phoenix, AZ 85018  |  |
| 21  | COPY of the foregoing mailed Certified, Return Receipt this 17 day of 2009 to:               |  |
| 22  | Carol M. Baron, Esq.   |  |
| 23  | Wayne McKellips, Ésq. Carson Messinger Elliott Laughlin & Ragan, P.L.L.C.                    |  |
| 24  | 3300 N. Central Ave., Ste. 1900<br>Phoenix, AZ 85012   |  |
| 25  | Attorneys for Respondents  |  |
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